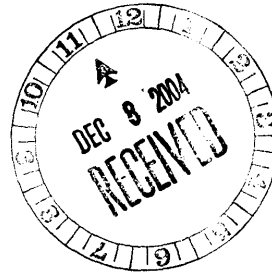


212716

December 7, 2004



Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

**Re: Surface Transportation Board Docket No. AB-6 (Sub-No. 427X);
The Burlington Northern and Santa Fe Railway Company
Abandonment of Sanborn, North Dakota to Rogers, North Dakota**

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Michael A. Smith
Senior Counsel
Direct 312.360.6724
Fax 312.360.6598
msmith@
freebornpeters.com

Chicago

Springfield

Dear Ms. Rutson:

On or after December 21, 2004, we are filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 8.00 miles of railroad line between Milepost 0.00 near Sanborn, in Barnes County, North Dakota and M.P. 8.00 near Rogers, in Barnes County, North Dakota, which traverses through United States Postal ZIP Codes 58479 and 58480 in Barnes County, North Dakota. Attached are ten copies plus the original of the Environmental and Historic Report describing the proposed action and any expected environmental or historic effects, as well as a map of the affected area.

Sincerely,

A handwritten signature in black ink, appearing to be 'Michael A. Smith'.

Michael A. Smith

Enclosures

ENTERED
Office of Proceedings
DEC - 8 2004
Part of
Public Record

212716

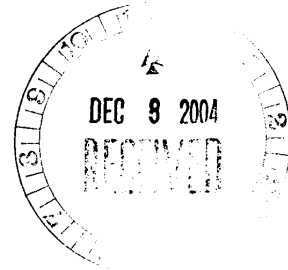
BEFORE THE
SURFACE TRANSPORTATION BOARD

Abandonment of a line of Railroad
Between BNSF M.P. 0.00 near Sanborn
Barnes County, North Dakota and
M.P. 8.00 near Rogers, Barnes County,
North Dakota

ENTERED
Office of Proceedings

DEC - 8 2004

Part of
Public Record



Docket No. AB-6
(Sub No. 427X)

ENVIRONMENTAL REPORT

The following information is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between BNSF M.P. 0.00 near Sanborn, in Barnes County, North Dakota and M.P. 8.00 near Rogers, in Barnes County, North Dakota, a total distance of 8.00 miles.

(1) Proposed action and Alternatives: Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF seeks to abandon and discontinue service of the line. A map of the line is attached as Exhibit A.

(2) Transportation system: Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no affect on existing transportation systems or patterns as the line is out of service.

(3) Land Use:

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

BNSF believes that the proposed exemption will be consistent with existing land use plans. The Barnes County Board of Commissioners was notified by a letter dated September 20, 2004. See Exhibits B. As of the date of this report, the Barnes County Board of Commissioners has not responded. BNSF will provide the Board copies of any response it may receive.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

BNSF believes the abandonment will not affect any prime agricultural lands. The Natural Resources Conservation Service was notified by a letter dated September 20, 2004. See Exhibit C. As of the date of this report, the Natural Resources Conservation Service has not responded. BNSF will provide the Board copies of any response it may receive.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9

N/A

(iv) If the proposed action is abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10906 and explain why.

BNSF does not know whether the right-of-way is suitable for alternative public uses. The Barnes County Board of Commissioners was notified by letter dated September 20, 2004. See Exhibit B. As of the date of this report, the Barnes County Board of Commissioners has not responded directly to the inquiry. BNSF will provide the Board copies of any response it may receive.

(4) Energy:

(i) Describe the effect of the proposed action on transportation of energy.

To the best of BNSF's knowledge there are no undeveloped energy resources such as oil, natural gas or coal in the vicinity of this line.

(ii) Describe the effect of the proposed action on recyclable commodities.

This abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities as the line is out of service.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

This abandonment will not result in an increase or decrease in overall energy efficiency as the line is out of service.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

There will be no diversions of traffic because the line is out of service.

(5) Air:

(i) If the proposed action will result in either:

(A). An increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line effected by the proposed, or

No.

(B). An increase in rail yard activity of at least 100% (measured by carload activity), or

No.

(C). An average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The action will not involve an increase in truck traffic of more than 10% or 50 vehicles a day on any affected road segment as the line is out of service.

(ii) If the proposed action affects a Class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) An increase in rail yard activity of at least 20% (measured by carload activity), or

(C) An average increase in truck traffic of more than 10-% of the average daily traffic of 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or in a case involving the

reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and from) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

This action will have no effect on the transportation of ozone depleting materials as the line is out of service.

(6) **Noise:** If any of the thresholds identified in item (5)(c) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more,

N/A

(ii) An increase to a noise level of 76 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

(7) **Safety:**

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety. There are 12 public crossings and no private crossings.

During salvage operations on the line, if any may be required, precautions

will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

Abandonment will not result in transportation of hazardous materials.

(iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

BNSF is not aware of any evidence of known hazardous waste site or sites where there have been known hazardous materials spills on the right of way.

(8) Biological resources:

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The U.S. Fish and Wildlife Service states that the project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. See Exhibit D, response from the U.S. Fish and Wildlife Service. The North Dakota Game and Fish Department foresees no identifiable conflict with wildlife or wildlife habitat. See Exhibit E, response from the North Dakota Game and Fish Department. The North Dakota Parks and Recreation has records for the occurrence of *Andropogon gerardii* –

Schizachyrium scoparium transition tallgrass prairie (central mesic tallgrass prairie), *Pascopyrum smithii* – *Stipa comata* prairie (central mixed grass prairie), *Spartina pectinata* – *Calamagrostis stricta* – *Carex spp.* Herbaceous vegetation (wet prairie), and *Schizachyrium scoparium* – *bouteloua curtipendula* – *Stipa spartea* prairie (dry mesic tallgrass prairie) in sections adjacent to the project area indicating that the habitat in the project area may be suited for these communities or other rare, threatened, sensitive or endangered species. See Exhibit F, letter from the North Dakota Parks and Recreation.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

BNSF believes the proposed abandonment will have no effect on wildlife sanctuaries, refuges, National or State parks or forests. The project as defined does not affect state lands that the North Dakota Parks and Recreation manage or Land and Water Conservation Fund recreation projects that the North Dakota Parks and Recreation coordinate. See Exhibit F, letter from the North Dakota Parks and Recreation. The Bureau of Land Management has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact area. See Exhibit G, letter from the Bureau of Land Management..

(9) Water:

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

BNSF believes the proposed exemption will be consistent with applicable Federal, State or local water quality standards. The North Dakota Department of Health believes environmental impacts from the proposed railroad abandonment will be minor and can be controlled by proper salvage and disposal methods. See Exhibit H, letter from the North Dakota Department of Health.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year floodplains will be affected. Describe the effects.

A Section 404 permit may be required. It appears that the project site involves jurisdictional waters of the United States, specifically unnamed tributaries to the Sheyenne River and adjacent wetlands. A Department of the Army permit will be required for any proposed construction work affecting jurisdictional waters of the United States, including jurisdictional wetlands. See Exhibit I, letter from the U.S. Army Corps of Engineers.

BNSF does not believe the proposed abandonment will affect the 100-year floodplain. The Barnes County Emergency Management Agency states that the area is not in a floodplain. See Exhibit J, response from the Barnes County Emergency Management Agency.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.

BNSF believes a section 402 permit will not be required. The North Dakota Department of Health believes the environmental impacts from the proposed railroad abandonment will be minor and can be controlled by proper salvage and disposal methods. See Exhibit H, letter from the North Dakota Department of Health.

(10) Proposed Mitigation: Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Any salvage operations that may result will be in accordance with BNSF's general practice of requiring its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of archaeological significance. The project itself should mitigate the environmental effects of reinstating active rail operations.

Respectfully Submitted,



Michael Smith
Freeborn & Peters
311 S. Wacker Dr. Suite 3000
Chicago, Illinois 60606-6677
Phone: (312) 360-6724
Fax: (312) 360-6598

Date: November 23, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

Abandonment of a line of Railroad
Between BNSF M.P. 0.00 near Sanborn,
Barnes County, North Dakota and
M.P. 8.00 near Rogers, Barnes County,
North Dakota

Docket No. AB-6
(Sub No. 427X)

HISTORICAL REPORT

The following is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting the Board's environmental and historical assessment regarding BNSF's Notice of Exemption to abandon its line of railroad between M.P. 0.00 near Sanborn, in Barnes County, North Dakota and M.P. 8.00 near Rogers, in Barnes County, North Dakota, a total distance of 8.00 miles.

(1) A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of the railroad structures that are 50 years old or older and are part of the proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the State Historical Society of North Dakota and one copy is being provided to the Surface Transportation Board's Section of the Environmental Analysis upon filing of this Report.

(2) A written description of the right-of-way (including approximate widths, to the extent known) and the topography and urban and/or rural characteristics of the surrounding area:

The Sanborn to Rogers, North Dakota line connects the towns of Sanborn with the town of Rogers. The 2000 census lists Sanborn with a population of 194 and Rogers at

61. Sanborn will retain BNSF rail service whereas Rogers is served by the Canadian Pacific Railway (CPRS).

The land in the area is generally flat. The major crops in the area are corn, soybeans and wheat. The rail corridor varies from 100 to 200 feet in width.

(3) Good quality photographs (actual photographic prints, not photocopies) or railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no bridges or structures that are 50 years or older in the immediate area of the abandonment

(4) The date(s) of construction of the structures, and the date(s) and extent of any major alterations, to the extent such information is known;

N/A

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

The corridor was acquired by the Northern Pacific Railway (NP) between 1875 and 1902. In 1970 the NP merged into the Burlington Northern Railroad (BN). In 1995 BN merged with The Atchison Topeka and Santa Fe Railway (ATSF) to become The Burlington Northern and Santa Fe Railway (BNSF).

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is to be historic;

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

The State Historical Society of North Dakota has determined that no historic properties will be affected by the proposed abandonment. See Exhibit K, letter from the State Historical Society of North Dakota.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

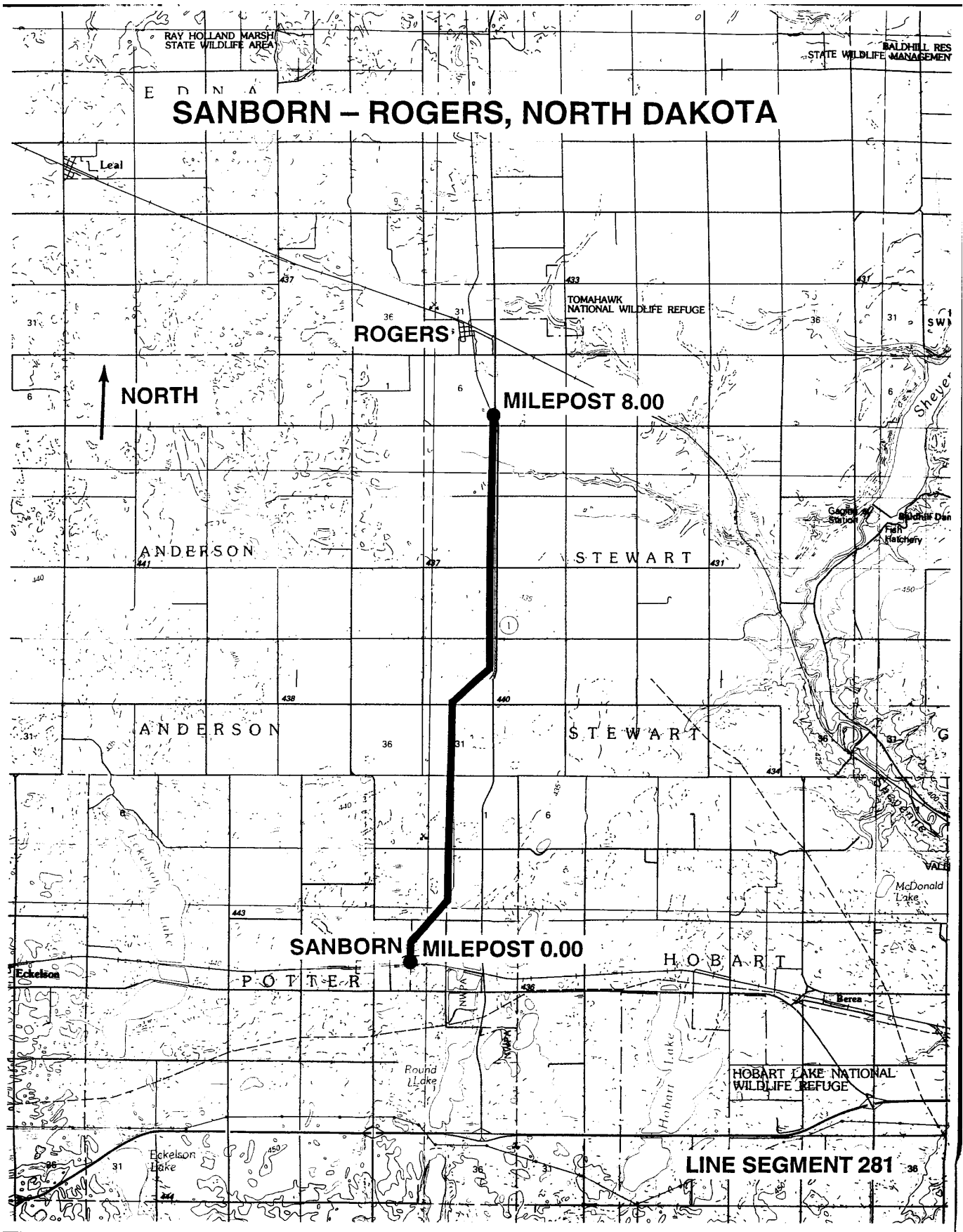
Respectfully submitted,



Michael Smith
Freeborn & Peters
311 S. Wacker Dr. Suite 3000
Chicago, Illinois 60606-6677
Phone: (312) 360-6724
Fax: (312) 360-6598

Date: November 23, 2004

SANBORN – ROGERS, NORTH DAKOTA



Freeborn & Peters LLP

September 20, 2004

Palmer Paulson
County Commissioner Chair
230 4th Street, NW
Barnes County Courthouse
Valley City, ND 58072-2947

**Re: The Burlington Northern and Santa Fe Railway Company Abandonment
of Sanborn, North Dakota to Rogers, North Dakota**

Attorneys at Law

11 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Associate
Direct 312.360.6336
Fax 312.360.6596
bnettl@freebornpeters.com

Dear Mr. Paulson:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 8.00 miles of railroad line between M.P. 0.00 near Sanborn, North Dakota to M.P. 8.00 near Rogers, North Dakota.

As part of the environmental report BNSF needs to know whether or not the proposed action is consistent with local land use plans and if there are any alternate public uses for the corridor such as a recreational trail.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

Chicago

Springfield

Freeborn & Peters LLP

September 20, 2004

Natural Resources Conservation Service
Valley City Service Center
575 10TH Street SW, Suite 2
Valley City, ND 58072-3906

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Sanborn, North Dakota to Rogers, North Dakota***

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 8.00 miles of railroad line between M.P. 0.00 near Sanborn, North Dakota to M.P. 8.00 near Rogers, North Dakota.

As part of the environmental report BNSF needs to know whether or not the proposed abandonment will have any effect on prime agricultural lands.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

Please provide this information by October 20, 2004. Thank you for your cooperation.

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

Attorneys at Law

11 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Attorney at Law
Direct 312.360.6336
Fax 312.360.6596
bnettl@freebornpeters.com

Chicago

Springfield

Freeborn & Peters LLP

September 20, 2004

U. S. Fish and Wildlife Service
North Dakota Field Office
3425 Miriam Avenue
Bismarck, North Dakota 58501-7926

**Re: The Burlington Northern and Santa Fe Railway Company Abandonment
of Sanborn, North Dakota to Rogers, North Dakota**

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 8.00 miles of railroad line between M.P. 0.00 near Sanborn, North Dakota to M.P. 8.00 near Rogers, North Dakota.

As part of the environmental report BNSF needs to know whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges or areas designated as critical habitat adjacent or near the line and if so, what effects the proposed action may have.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by October 20, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

U.S. FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES
ND FIELD OFFICE

Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW.

10/20/04
Date


Jeffrey K. Towner
Field Supervisor

Freeborn & Peters LLP

September 20, 2004

North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501-5095

**Re: The Burlington Northern and Santa Fe Railway Company Abandonment
of Sanborn, North Dakota to Rogers, North Dakota**

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6396
bnettle@
freebornpeters.com

*Chicago**Springfield*

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 8.00 miles of railroad line between M.P. 0.00 near Sanborn, North Dakota to M.P. 8.00 near Rogers, North Dakota.

As part of the environmental report BNSF needs to know whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges or areas designated as critical habitat adjacent or near the line and if so, what effects the proposed action may have.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by October 20, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure



North Dakota Game & Fish Dept.
100 N. Bismarck Expressway
Bismarck, ND 58501-5095

We have reviewed the project and foresee no identifiable conflict with wildlife or wildlife habitat based on the information provided.

(6)


Michael G. McKenna
Chief, Conservation & Communication Division

Date

10/14/04



John Hoeven, Governor
Douglass A. Prchal, Director

1600 East Century Avenue, Suite 3
Bismarck, ND 58503-0649
Phone 701-328-5357
Fax 701-328-5363
E-mail parkrec@state.nd.us
www.ndparks.com

October 12, 2004

Brian Nettles
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, IL 60606-6677

RE: Burlington Northern and Santa Fe Railway Company Abandonment of Sanborn to Rogers

Dear Mr. Nettles:

The North Dakota Parks and Recreation Department has reviewed the above referenced proposal to abandon a section of BNSF railway located in Sections 5, 6, 7, 8, 17, 18, 19, 20, 20, 30 and 31, T141N, R59W; and Sections 1, 2, 11, 12, and 14, T140N, R60W, Barnes County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare species and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

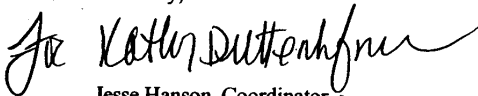
The North Dakota Natural Heritage Inventory has limited rare species information from the project area. For your information, we do have a records for the occurrence of *Andropogon gerardii* - *Schizachyrium scoparium* transition tallgrass prairie (central mesic tallgrass prairie), *Pascopyrum smithii* - *Stipa comata* prairie (central mixed grass prairie), *Spartina pectinata* - *Calamagrostis stricta* - *Carex spp.* herbaceous vegetation (wet prairie), and *Schizachyrium scoparium* - *Bouteloua curtipendula* - *Stipa spartea* prairie (dry mesic tallgrass prairie) in sections adjacent to the project area indicating that the habitat in the project area may be suited for these communities or other rare, threatened, sensitive or endangered species.

Regarding any reclamation efforts, we recommend that any impacted areas be revegetated with species native to the project area.

It is our policy to charge out-of-state requests for data services including data retrieval, data analysis, manual and computer searches, packaging and collection of data. An invoice for services provided has been enclosed.

Thank you for the opportunity to comment on this project. Please contact Kathy Duttenhefner (701-328-5370 or kgduttonhefner@state.nd.us) of our staff if additional information is needed.

Sincerely,



Jesse Hanson, Coordinator
Planning and Natural Resources Division

R.USNDNHI*1403

.....
Play in our backyard!

North Dakota Natural Heritage Inventory
Species of Concern and Significant Ecological Communities

State Scientific Name	State Common Name	Township & Range	Section	TRS Notes	State Rank	Global Rank	Federal Status	Last Observation
ANDROPOGON GERARDII - (PANICUM VIRGATUM) NORTHERN TALLGRASS PRAIRIE	WET-MESIC TALLGRASS PRAIRIE	140N060W	22		S1			1998-09-09
ANDROPOGON GERARDII - SCHIZACHYRIUM SCOPARIUM TRANSITION TALLGRASS PRAIRIE	CENTRAL MESIC TALLGRASS PRAIRIE	140N060W	23	W4	S1			1998-09-09
PASCOPIRYUM SMITHII - STIPA COMATA PRAIRIE	CENTRAL MIXED GRASS PRAIRIE	140N060W	24		S2			1996-07-23
SPARTINA PECTINATA - CALAMAGROSTIS STRICTA - CAREX SPP. HERBACEOUS VEGETATION	WET PRAIRIE	140N060W	27		S2S3			1998-09-10
SPARTINA PECTINATA - CALAMAGROSTIS STRICTA - CAREX SPP. HERBACEOUS VEGETATION	WET PRAIRIE	141N059W	43	2	S2S3			1998-09-16
PASCOPIRYUM SMITHII - STIPA COMATA PRAIRIE	CENTRAL MIXED GRASS PRAIRIE	141N059W	43	2	S2			1998-09-15
ANDROPOGON GERARDII - SCHIZACHYRIUM SCOPARIUM TRANSITION TALLGRASS PRAIRIE	CENTRAL MESIC TALLGRASS PRAIRIE	141N059W	43		S1			1998-09-15
PASCOPIRYUM SMITHII - STIPA COMATA PRAIRIE	CENTRAL MIXED GRASS PRAIRIE	142N059W	33	32; 29	S2			1998-09-10
SCHIZACHYRIUM SCOPARIUM - BOUTELOUA CURTIPENDULA - STIPA SPARTEA PRAIRIE	DRY MESIC TALLGRASS PRAIRIE	142N059W	33	32; 29	S1			1998-09-10

North Dakota Natural Heritage Inventory Biological and Conservation Data Disclaimer

The quantity and quality of data collected by the North Dakota Natural Heritage Inventory are dependent on the research and observations of many individuals and organizations. In most cases, this information is not the result of comprehensive or site-specific field surveys; many natural areas in North Dakota have never been thoroughly surveyed, and new species are still being discovered. For these reasons, the Natural Heritage Inventory cannot provide a definite statement on the presence, absence, or condition of biological elements in any part of North Dakota. Natural Heritage data summarize the existing information known at the time of the request. Our data are continually upgraded and information is continually being added to the database. This data should never be regarded as final statements on the elements or areas that are being considered, nor should they be substituted for on-site surveys.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

North Dakota Field Office

2933 3rd Ave West

Dickinson, ND 58601

701-227-7700

<http://www.mt.blm.gov/ndfo/>

In Reply To:

2700
LRG

October 7, 2004

Brian Nettles
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, IL 60606-6677

RE: The Burlington Northern and Santa Fe Railway Company Abandonment of Sanborn, North Dakota to Rogers, North Dakota, Notice of Exemption

Dear Mr. Nettles:

The Bureau of Land Management (BLM) has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact area.

However, please keep the BLM informed as to the continued process. These railroad abandonments depending under which Act they were granted, impact the BLM. We appreciate the opportunity to comment.

Sincerely,

Linda Gisvold
Realty



NORTH DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section

Location:

1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:

701-328-5200

Mailing Address:

P.O. Box 5520
Bismarck, ND 58506-5520

September 29, 2004

Brian Nettles, Paralegal
Freeborn & Peters LLP
311 South Wacker Dr., Suite 3000
Chicago, IL 60606-6677

Re: BNSF Railroad Abandonment
Sanborn to Rogers, Emmons County, N.D.

Dear Mr. Nettles:

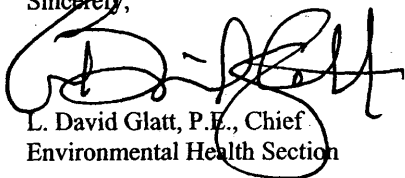
This department has reviewed the information concerning the above-referenced project submitted under date of September 20, 2004, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed railroad abandonment will be minor and can be controlled by proper salvage and disposal methods. With respect to the abandonment, we have the following comments:

1. Follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body.
2. Any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, must be reported to the North Dakota Department of Health. The Department's Environmental Emergency Response Contacts List is attached.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,



L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc
Attach.

Environmental Health
Section Chief's Office
701-328-5150

Air
Quality
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

Website: www.health.state.nd.us/ndhd/environ
Printed on recycled paper.

North Dakota Department of Health Environmental Health Section Environmental Emergency Response Contacts List

NORMAL WORKING HOURS 8 a.m. - 5:00 p.m., Monday - Friday
Call the office phone numbers

AFTER HOURS 24 hours per day, 7 days per week
STATE RADIO 1-701-328-9921
or 1-800-472-2121 (in-state calls)

Page

HEALTH DEPARTMENT CASE MANAGER

Page

ENVIRONMENTAL HEALTH SECTION CASE MANAGER Office phone no.: 328-5150
--

Alternate Contact

Primary Contacts

WATER POLLUTION oil spills Office phone no.: 328-5210	AIR POLLUTION gases, vapors Office phone no.: 328-5188	RADIATION radioactive materials Office phone no.: 328-5188	TOXIC & HAZARDOUS MATERIALS pesticides, insecticides, chemicals Office phone no.: 328-5166	DRINKING WATER public water systems Office phone no.: 328-5211	CHEMISTRY LABORATORY sample analysis Office phone no.: 328-6140
--	---	---	---	---	--

1st Alternative Contact Dana Mount Office phone no.: 328-5150 Home phone no.: 223-6735
--

Approved by:

Date: June 4, 2002

Emergency Response Coordinator

2nd Alternative Contact L. David Glatt Office phone no.: 328-5150 Home phone no.: 255-4391
--

Approved by:

Date: June 4, 2002

Chief, Environmental Health Section

ND Department of Health
Environmental Health Section
1200 Missouri Avenue
P.O. Box 5520
Bismarck, ND 58506-5520

June 4, 2002



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640
September 30, 2004

North Dakota Regulatory Office

[200460644]

Brian Nettles
Freeborn & Peters LLP
311 South Wacker Drive
Suite 3000
Chicago, Illinois 60606-6677

Dear Mr. Nettles:

This is in reference to your solicitation letter, on behalf of the **Burlington Northern and Santa Fe Railway Company (BNSF)**, for a Department of the Army (DA) review in accordance with Section 404 of the Clean Water Act. The BNSF project consists of abandonment of 8.0 miles of railroad line between Sanborn, North Dakota and Rogers, North Dakota. The legal description is Sections 1, 11, 12, and 14 Township 140 North, Range 60 West, and Sections 8, 17, 20, 29, 30, and 31, Township 141 North, Range 59 West, Barnes County, North Dakota.

Based on the information provided to this office, it appears that the project site involves jurisdictional waters of the United States, specifically unnamed tributaries to the Sheyenne River and adjacent wetlands. Therefore, in accordance with 33 C.F.R., 320-330, a Department of the Army permit will be required for any proposed construction work affecting jurisdictional waters of the United States, including jurisdictional wetlands.

The Corps' review of the above mentioned project for Section 404 authorization requires the submittal of a complete Corps of Engineers permit application (ENG Form 4345), including a project location map. It is essential to identify impacts to waters of the United States resulting from this proposed project. Should construction activities associated with the proposed project result in impacts to waters of the United States, please complete and submit the enclosed Corps of Engineers permit application to the U. S. Army Corps of Engineers, North Dakota Regulatory Office, 1513 South 12th Street, Bismarck, North Dakota 58504.

If you have any questions concerning this determination, please do not hesitate to contact this office by letter or telephone (701) 255-0015 and reference project number **200460644**.

Sincerely,

William A. May
Project Manager
North Dakota Regulatory Office

Enclosure

**Instructions for Preparing a
Department of the Army Permit Application**

Blocks 1 through 4. To be completed by Corps of Engineers.

Block 5. Applicant's Name. Enter the name of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

Block 6. Address of Applicant. Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked Block 6.

Block 7. Applicant Telephone Number(s). Please provide the number where you can usually be reached during normal business hours.

Blocks 8 through 11. To be completed, if you choose to have an agent.

Block 8. Authorized Agent's Name and Title. Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, or any other person or organization. Note: An agent is not required.

Blocks 9 and 10. Agent's Address and Telephone Number. Please provide the complete mailing address of the agent, along with the telephone number where he / she can be reached during normal business hours.

Block 11. Statement of Authorization. To be completed by applicant, if an agent is to be employed.

Block 12. Proposed Project Name or Title. Please provide name identifying the proposed project, *e.g.*, Landmark Plaza, Burned Hills Subdivision, or Edsall Commercial Center.

Block 13. Name of Waterbody. Please provide the name of any stream, lake, marsh, or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

Block 14. Proposed Project Street Address. If the proposed project is located at a site having a street address (not a box number), please enter it here.

Block 15. Location of Proposed Project. Enter the county and state where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked Block 15.

Block 16. Other Location Descriptions. If available, provide the Section, Township, and Range of the site and / or the latitude and longitude. You may also provide description of the proposed project location, such as lot numbers, tract numbers, or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile downstream from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project site if known.

Block 17. Directions to the Site. Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site.

Block 18. Nature of Activity. Describe the overall activity or project. Give appropriate dimensions of structures such as wingwalls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles, or float-supported platforms.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 18.

Block 19. Proposed Project Purpose. Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

Block 20. Reasons for Discharge. If the activity involves the discharge of dredged and/or fill material into a wetland or other waterbody, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

Block 21. Types of Material Being Discharged and the Amount of Each Type in Cubic Yards. Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

Block 22. Surface Areas of Wetlands or Other Waters Filled. Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If more space is needed, attach an extra sheet of paper marked Block 22.

Block 23. Is Any Portion of the Work Already Complete? Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other waterbody (in acres or square feet). If the work was done under an existing Corps permit, identify the authorization, if possible.

Block 24. Names and Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Project Site. List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the waterbody or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked Block 24.

Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be developed.

Block 25. Information about Approvals or Denials by Other Agencies. You may need the approval of other federal, state, or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

Block 26. Signature of Applicant or Agent. The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

DRAWINGS AND ILLUSTRATIONS

General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number.

Please submit one original, or good quality copy, of all drawings on 8½ x 11 inch plain white paper (tracing paper or film may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
(33 CFR 325)

OMB APPROVAL NO. 0710-0003
Expires December 31, 2004

The public reporting burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary, however, if information is not provided, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO. 200460644	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
---------------------------------	----------------------	------------------	-------------------------------

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required)
6. APPLICANT'S ADDRESS	9. AGENT'S ADDRESS
7. APPLICANT'S PHONE NUMBERS WITH AREA CODE a. Residence b. Business	10. AGENT'S PHONE NUMBERS WITH AREA CODE a. Residence b. Business

11. STATEMENT OF AUTHORIZATION

I hereby authorize _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE	DATE
NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY	

12. PROJECT NAME OR TITLE (see instructions)

13. NAME OF WATERBODY, IF KNOWN (if applicable)	14. PROJECT STREET ADDRESS (if applicable)
15. LOCATION OF PROJECT COUNTY STATE	

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)

17. DIRECTIONS TO THE SITE

18. Nature of Activity (Description of project, include all features)

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

23. Is Any Portion of the Work Already Complete? Yes _____ No _____ IF YES, DESCRIBE THE COMPLETED WORK

24. Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

25. List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up any trick scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

Freeborn & Peters LLP

September 20, 2004

Barnes County Emergency Management Agency
230 4th Street, NW
Barnes County Courthouse
Valley City, ND 58072-2947

**Re: The Burlington Northern and Santa Fe Railway Company Abandonment
of Sanborn, North Dakota to Rogers, North Dakota**

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

Chicago

Springfield

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 8.00 miles of railroad line between M.P. 0.00 near Sanborn, North Dakota to M.P. 8.00 near Rogers, North Dakota.

As part of the environmental report BNSF needs to know if the proposed abandonment will affect any 100-year floodplains. If so, please furnish 8 & ½ by 11 black and white maps in the area of each designated floodplain if they are available.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by October 20, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

*This area is not in a
flood plain.*

*Norm Dupples
BC Emergency Manager*



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

John Hoeven
Governor of North Dakota

October 29, 2004

**North Dakota
State Historical Board**

Diane K. Larson
Bismarck - President

Marvin L. Kaiser
Williston - Vice President

Albert I. Berger
Grand Forks - Secretary

Chester E. Nelson, Jr.
Bismarck

Gerold Gerntholz
Valley City

A. Ruric Todd III
Jamestown

Sara Otte Coleman
Director
Tourism Division

Kathi Gilmore
State Treasurer

Alvin A. Jaeger
Secretary of State

Douglass Prechal
Director
Parks and Recreation
Department

David A. Sprynczynatyk
Director
Department of Transportation

John E. Von Rueden
Bismarck

Merlan E. Paaverud, Jr.
Director

Accredited by the
American Association
of Museums

Brian Nettles
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, IL 60606-6677

ND SHPO Ref.: 05-0060, Proposed Railway Abandonment, Barnes County, ND.


Dear Mr. Nettles:

We have reviewed Project: 05-0060, proposed abandonment of approximately 8 miles of Burlington Northern and Santa Fe Rail way Company line between the Cities of Sanborn and Rogers in portions of Sections 7, 18, 19, 30, and 31, T141N, R59W, and Sections 1, 11, 12, and 14, T140N, R60W, Barnes County, ND.

We concur with "No Historic Properties Affected" determination provided the project is of the nature specified and takes place in the legal description listed in the correspondence.

Thank you for the opportunity to review this project. Please include the ND SHPO Reference number listed above in any further correspondence for this specific project. If you have any questions please contact Duane Klinner at (701) 328-3576 (email at dklinner@state.nd.us).

Sincerely,


Merlan E. Paaverud, Jr.
State Historic Preservation Officer
(North Dakota)